

Request for Reconsideration after Final Action

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Input Field	Entered
SERIAL NUMBER	85820355
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ARGUMENT(S)	
Please see the actual argument text attached within the Evidence section.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
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DESCRIPTION OF EVIDENCE FILE	Request for Reconsideration, Declaration of Michael B. Connolly and Declaration of Mark J. Nielsen
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Mark J. Nielsen/
SIGNATORY'S NAME	Mark J. Nielsen
SIGNATORY'S POSITION	Attorney of Record, WSBA #14476
SIGNATORY'S PHONE NUMBER	206 365 9500
DATE SIGNED	03/20/2014
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Mar 20 15:11:18 EDT 2014
TEAS STAMP	USPTO/RFR-76.121.171.253-20140320151118530855-85820355-5003ab17f66b4e3aa3b2b93d8f247922dfcfefb085a17ebeabd1a54081b3b89dd1-N/A-N/A-20140320142422098041

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **85820355** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Please see the actual argument text attached within the Evidence section.

EVIDENCE

Evidence in the nature of Request for Reconsideration, Declaration of Michael B. Connolly and Declaration of Mark J. Nielsen has been attached.

Original PDF file:

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Converted PDF file(s) (12 pages)

[Evidence-1](#)

[Evidence-2](#)

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Original PDF file:

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Converted PDF file(s) (32 pages)

[Evidence-1](#)

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SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Mark J. Nielsen/ Date: 03/20/2014

Signatory's Name: Mark J. Nielsen

Signatory's Position: Attorney of Record, WSBA #14476

Signatory's Phone Number: 206 365 9500

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85820355

Internet Transmission Date: Thu Mar 20 15:11:18 EDT 2014

TEAS Stamp: USPTO/RFR-76.121.171.253-201403201511185
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In Re Application of: **Mercer Wine Estates, LLC**
Serial No.: **85/820,355**
Mark: **MERCER RESERVE CAVALIE**
Intl. Class: **33**

REQUEST FOR RECONSIDERATION

Mercer Wine Estates, LLC ("Applicant") hereby requests reconsideration of the final refusal to approve the subject mark for publication, as stated in the Office Action dated September 20, 2013. Applicant's request is supported by the Declaration of Mark J. Nielsen, dated August 21, 2013, ("First Nielsen Declaration") filed previously, and the Declaration of Mark J. Nielsen, dated March 20, 2014 ("Second Nielsen Declaration") and the Declaration of Michael B. Connolly, dated March 14, 2014 ("Connolly Declaration") filed with this request for reconsideration.

The Examining Attorney has cited a registration for CAVALLI, Registration No. 3,402,059, and has refused to allow the subject mark to proceed to publication pursuant to Section 2(d).

For the following reasons, Applicant believes the refusal to register the subject application under § 2(d) should be withdrawn.

For the sake of efficiency, Applicant's request for reconsideration is based on and adds comments to the text of its Office Action Response, filed on August 21, 2013. (Text from the prior Office Action Response is single spaced; new text has space-and-a-half spacing.) As noted below, Applicant believes the Examining Attorney did not consider evidence previously supplied by Applicant and has not followed the guidance of the TMEP in several important ways.

Applicant agrees entirely with the Examining Attorney's statement of the applicable test of likelihood of confusion: "whether the marks are sufficiently similar *in their entireties* that confusion as to the source of the goods and/or services offered under applicant's and registrant's marks is *likely* to result" (emphasis added). However, as noted below, since the 1973 *DuPont* decision, federal courts have been very clear that the consideration of likelihood of confusion is not an abstract mental exercise but a realistic consideration of how the marks are used on the applicable goods or services in the marketplace.

Applicant acknowledges that the goods are the same or virtually the same for these purposes and that, for these purposes, trade channels will be considered the same. That said, as will be discussed below, consideration of how the marks are used in the marketplace supports Applicant's view that material differences in the marks themselves alleviate any possible risk of confusion.

Applicant notes that the Examining Attorney functions as both an advocate and a judge. As an advocate, Applicant understands that the Examining Attorney will attack its arguments one by one and will try to diminish the significance of Applicant's evidence. As a judge, however, the Examining Attorney must make an impartial decision based on the totality of the evidence and arguments in deciding whether confusion between the marks is likely.

Applicant believes that if the Examining Attorney will consider the evidence and arguments as a whole, it will be clear that confusion between MERCER RESERVE CAVALIE and CAVALLI is not likely at all and the refusal to register the subject mark should be withdrawn.

1. The cited mark, CAVALLI, and the third element of the subject mark, CAVALIE, are not phonetic equivalents. In the cited mark, the accent falls on the second syllable so that it is pronounced, ca-VALL-ee. In the third element of the subject mark, the accent falls on the first syllable so that it is pronounced, CA-va-lee, i.e., like the word, "cavalry." The double "ll" in the cited mark drives the significant difference in pronunciation. With the double "ll," the middle syllable must be pronounced together as "vall," with the accent shifting to that syllable. Therefore, the cited mark, CAVALLI, and the third element of the subject mark, CAVALIE, are not phonetic equivalents, and there are no common elements between the marks.

In the final refusal, the Examining Attorney stated that there is no correct pronunciation of a mark, as stated in TMEP 1207.01(b)(iv), and then conducted the analysis on the assumption, unsupported by evidence or argument, that CAVALIE and CAVALLI are pronounced the same way and therefore identical phonetically. As noted in the Connolly Declaration, ¶¶ 12-13, CAVALLI will clearly be perceived to be an Italian name whereas CAVALIE will be viewed as an English or perhaps French name – and the marks are likely to be pronounced differently as well. It is therefore more likely that they will be pronounced differently than that they would be pronounced identically. In any event, it is inconsistent with the TMEP to say there is no correct pronunciation and then treat the marks as phonetically identical.

2. The cited mark, CAVALLI, and the third element of the subject mark, CAVALIE, are also readily distinguishable in appearance and would not be mistaken for each other.

Whatever similarities and dissimilarities there are between CAVALLI and CAVALIE, the marks *in their entireties* are not confusingly similar, as is discussed in more detail below¹.

3. The cited mark is a weak mark for several reasons. First, it is obvious that it is merely a surname. The owner of the cited mark is Roberto Cavalli, S.P.A., so CAVALLI is the surname of the registrant's namesake. The application was made under Section 66, and the applicant/registrant has never made an allegation of use in the U.S. with respect to the cited registration from the time the application was filed on March 1, 2007 until the present. The inherent weakness of the cited mark should be considered by the Examining Attorney in deciding whether to withdraw the objection under Section 2(d).

The Examining Attorney has misconstrued Applicant's argument here. Applicant has offered several strong arguments for considering the CAVALLI mark to be weak. The fact that the CAVALLI registration issued without proof of actual use in the U.S. let alone proof of acquired distinctiveness goes directly to the relative strength or weakness of the cited mark. Applicant does not deny that it is a registration or that it is entitled to protection. Applicant's point is that the file history demonstrates that it is a weak mark without any evidence of acquired distinctiveness, and that the Examining Attorney should consider this fact in assessing the weakness of the mark.

4. The cited mark is also weak because of the large number of very similar marks that are also registered on the Principal Register in Class 33, as shown in the attached table. Applicant wishes to emphasize that, pursuant to TMEP 1207.01(d)(iii), it is submitting evidence of third party registrations for the purpose of showing "that a mark or a portion of a mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services." The cited mark coexists with registrations in Class 33 for the following marks: CAVALLO & Design, MAS CAVALLS, CAVALLOTTO, KAVALIER, CAVALLINA, CAVALIA (stylized), and MASCHIO DEI CAVALIERI.² A table of registrations for similar marks is attached to this response; TSDR status pages for each of these registrations are attached to the Nielsen Declaration as Exhibit A. Under these circumstances, it

¹ Applicant notes that "Cavalie" was the middle name of Alexander Cavalie Mercer, an English officer who fought in the battle of Waterloo and is an ancestor of the owners of Applicant. See Second Nielsen Declaration, Exhibit E. "Cavalie" is not an Italian name and will never be perceived by wine consumers as an Italian name.

² In addition, Applicant notes that a pending application for CASTELLO CAVALIERI, Serial No. 85/359,022, in Class 33 has been allowed by the PTO. On March 4, 2014, the applicant filed a Statement of Use, so a registration will likely soon issue on the application.

is clear that purchasers of alcoholic beverages are so accustomed to seeing marks like CAVALLI, CAVALLS, CAVALLOTTO and CAVALLINA that they will have no difficulty distinguishing between CAVALLI and MERCER RESERVE CAVALLIE.

In the final refusal, the Examining Attorney rejected Applicant's evidence of third party registrations as "generally entitled to little weight in determining the strength of a mark, because such registrations do not establish that the registered marks identified therein are in *actual use* in the marketplace." As discussed below, the Examining Attorney then completely ignored Applicant's evidence of actual use of similar or identical marks in the marketplace. The Examining Attorney further suggested that evidence of third party registrations is irrelevant unless the third party marks are identical to the cited mark.

Applicant respectfully believes the Examining Attorney's position with respect to the relevance of the third party registrations is simply in error. As provided in TMEP 1207.01(d)(iii), third party registrations are highly relevant for the purpose of showing "that a mark or a portion of a mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services." The Examining Attorney's rejection of this evidence for extraneous reasons is contrary to TMEP 1207.01(d)(iii). The third party registrations submitted with the First Nielsen Declaration are relevant to show that CAVALL-formative marks are common in Class 33 and that "the public will look to other elements to distinguish the source of the goods or services."

In addition, the Examining Attorney cited no authority for claiming that the third party registrations submitted by Applicant are irrelevant because they differed from the cited mark.

Applicant does not contend that third party registrations *alone* are sufficient to establish Applicant's case but they are highly relevant and highly pertinent for showing the common use of CAVALL-formative marks and, therefore, the relatively narrow scope of protection that should be afforded to the CAVALLI mark.

5. "Evidence of third-party use falls under the sixth *du Pont* factor – the 'number and nature of similar marks in use on similar goods.' *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973). If the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, it 'is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.' *Palm*

Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772, 396 F.3d 1369, 1373-74, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005).” TMEP 1207.01(d)(iii). Attached to the Nielsen Declaration as Exhibit B are copies of web pages showing use of marks very similar to CAVALLI for wine and tequila. The first pages of Exhibit B show pages from the website of Bella Cavalli Farms & Vineyard showing 8 different wines being offered under the BELLA CAVALLI label. This mark, a combination of BELLA and the cited mark, is very similar to CAVALLI. Subsequent pages of Exhibit B show actual use of CAVALLINA, CAVALLOTTO, MAS CAVALLS, and MASCHIO DEI CAVALIERI for wines and of CAVALINO for tequila. Several of these marks have the same first seven letters as CAVALLI and are, therefore, more similar to CAVALLI than is MERCER RESERVE CAVALIE or even the third element of MERCER RESERVE CAVALIE alone.

In the final refusal, the Examining Attorney never mentioned any of the evidence Applicant submitted through the First Nielsen Declaration of actual use in the marketplace of identical and similar marks.

Applicant requests the Examining Attorney to consider evidence of similar marks in actual use in the marketplace as submitted with the First Nielsen Declaration and the Second Nielsen Declaration. To summarize, Applicant has submitted evidence of actual use in the marketplace of the following marks:

- BELLA CAVALLI (wine)
- COVALLI (wine)
- CAVALLINA (wine)
- CAVALLOTTO (wine)
- MAS CAVALLS (wine)
- MASCHIO DEI CAVALIERI (wine)
- CAVALINO (tequila)

Applicant wishes to draw the Examining Attorney’s attention especially to the evidence of use of the COVALLI mark in connection with wine in the U.S., as shown in Exhibit B to the Second Nielsen Declaration. It is obvious that COVALLI and CAVALLI are virtually identical in sound and appearance. Both are clearly Italian names. And both co-exist in the marketplace for wine in the U.S.

Applicant strongly believes that if wine consumers are able to distinguish without confusion between CAVALLI and BELLA CAVALLI, COVALLI, CAVALLINA,

CAVALLOTTO, MAS CAVALLS, and MASCIO DEI CAVALIERI, it is difficult to believe that confusion between CAVALLI and MERCER RESERVE CAVALIE is even possible, let alone likely. As the Examining Attorney has correctly stated, the point is not whether these marks are distinguishable in a side-by-side comparison. Rather, the “focus is on the recollection of the average purchaser, who normally retains a general rather than specific impression of trademarks.” The marketplace shows that the recollection of the average purchaser is more than enough to recognize differences between these similar marks and not be confused. In such a marketplace, consumers will have no difficulty whatsoever distinguishing between MERCER RESERVE CAVALIE and the cited mark without any risk of confusion.

Applicant urges the Examining Attorney to also consider the Connolly Declaration. Michael B. Connolly has worked in the wine distribution and sales business for over 30 years and has provided cogent reasons for why there is virtually no risk of confusion in the marketplace between MERCER RESERVE CAVALIE and the cited mark.

The Connolly Declaration, ¶ 13, also points out that there are thousands if not tens of thousands of foreign names in the marketplace for wine in the U.S. It is common knowledge that wine making originated in European countries like France, Italy, Germany and Spain and that even today many wines from these countries are sold in stores and restaurants. Wine consumers in the U.S. have become accustomed to seeing many, many foreign names on wine labels and have become adept at distinguishing between them. This is confirmed by the third party registrations and third party marks in actual use in the marketplace submitted by Applicant. The prevalence of foreign names in the marketplace for wine is another factor weighing against any suggestion that confusion between MERCER RESERVE CAVALIE and CAVALLI is even possible let alone likely.

6. “If the common element of two marks is ‘weak’ in that it is generic, descriptive, or highly suggestive of the named goods or services, it is unlikely that consumers will be confused unless the overall combinations have other commonality.” TMEP 1207.01(b)(viii). As noted above, the CAVALLI mark is weak and many similar marks have been registered and are in use for the same goods. In this case, there are no common elements between CAVALLI and MERCER RESERVE CAVALIE. There are two somewhat similar elements, but CAVALLI and CAVALIE are not as similar as CAVALLI and elements of other registered marks, such as

CAVALLO, CAVALLOTTO, and CAVALLINA. In any event, the CAVALLI and MERCER RESERVE CAVALIE marks as a whole have no “other commonality” and therefore are highly unlikely to be the subject of any consumer confusion.

Applicant respectfully submits that the Examining Attorney has taken its arguments about the weakness of the cited mark piecemeal and has rejected them as insufficient, alone, to establish the weakness of the CAVALLI mark. Applicant requests the Examining Attorney to consider the facts and arguments *as a whole* on the issue of weakness and the appropriate scope of protection for the cited registration. For example, with respect to the weakness of CAVALLI, Applicant has pointed out that the CAVALLI mark was registered without proof of use let alone proof of acquired distinctiveness as would normally be required of a surname mark. In addition, Applicant has submitted abundant evidence of both third party registrations of CAVALL-formative marks in Class 33 for wine and third party CAVALL-formative marks for wine in actual use in the marketplace. Both strongly suggest that marks like CAVALLI are common, that they can and do co-exist on the Principal Register, and that wine consumers are quite capable of distinguishing between numerous CAVALL-formative marks. All of this, taken together, means that on the record before the Examining Attorney, the CAVALLI mark is weak and is entitled to a narrow scope of protection.

7. The Examining Attorney has incorrectly dismissed the significance of the first two elements of the subject mark, MERCER RESERVE. MERCER is a registered trademark in its own right under Registration Nos. 3,528,762 and 4,035,079. In many of the cases relied on by the Examining Attorney, the additional elements of marks refused registration were trivial or not distinctive. “Additions or deletions to marks may be sufficient to avoid a likelihood of confusion if: (1) the marks in their entireties convey significantly different commercial impressions; or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted.” TMEP 1207.01(b)(iii). Both of these conditions are met here. MERCER, a previously registered mark that was first used 5 and a half years ago, conveys a different and strong commercial impression. MERCER RESERVE CAVALIE has no common elements with CAVALLI, and CAVALLI is weak and diluted, as shown above from both the Principal Register and evidence of marks in the market place.

Applicant respectfully submits that the Examining Attorney has mistakenly dismissed the trademark significance of the initial elements of the MERCER RESERVE CAVALIE mark. As noted above, MERCER, has already been registered several times on the Principal Register

as a word mark, as MERCER & DESIGN and as MERCER CANYONS. The MERCER trademark is a recognized source indicator for wine with priority from as early as October 16, 2007. As stated in the Connolly Declaration at ¶ 9, wine consumers will understand MERCER to identify the winery that produced the MERCER RESERVE CAVALIE wine. This immediately distinguishes MERCER RESERVE CAVALIE wine from CAVALLI wine as coming from an entirely different source.

The second element of the MERCER RESERVE CAVALIE mark is also important for distinguishing the MERCER RESERVE CAVALIE mark from the CAVALLI mark in the marketplace. The Examining Attorney is correct that “Reserve” is a generic term in the wine industry – but it is a significant term in the marketplace for wine, which is why wineries use the term. As explained in the Connolly Declaration at ¶ 10, a reserve wine is a special wine that is typically sold at a higher price because of its quality and limited production quantities. In this case, the MERCER RESERVE CAVALIE wine sells for \$39.99. At this price point, consumers will pay careful attention to which wine they are purchasing, which winery made it, where it was produced, and what grape varietals were used in the wine.

The Examining Attorney dismissed the significance of the initial elements of the MERCER RESERVE CAVALIE mark because of a general statement that additional elements do not, *per se*, eliminate a likelihood of confusion. The Examining Attorney cited a string of cases, none of which are based on facts comparable to the subject application. None of the marks in the decisions cited by the Examining Attorney involve the addition of a registered mark that functions as a source indicator for the product where the similar elements are weak³. Instead, the Examining Attorney should be guided by the decisions discussed below and especially the CRISTAL/CRYSTAL CREEK decision footnoted below.

Applicable law recognizes that additional elements may indeed obviate any risk of confusion. “Additions or deletions to marks may be sufficient to avoid a likelihood of

³ Applicant notes with some irony the Examining Attorney’s reliance on *In re Riddle*, 225 USPQ 630 (TTAB 1985). There the TTAB affirmed a refusal to register despite a “Statement of Consent” by the owner of the cited registration stating that the parties believed there would be no confusion in the marketplace. Since the time of this decision, the TTAB has wisely given greater weight to the realities of the marketplace over its own uninformed beliefs about how marks are actually used and perceived in the marketplace.

confusion if: (1) the marks in their entireties convey significantly different commercial impressions; or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted.” TMEP 1207.01(b)(iii) (emphasis added). It is important to note that this provision is disjunctive. In this situation, “the marks in their entireties convey significantly different commercial impressions” and that alone is sufficient under TMEP 1207.01(b)(iii) to support withdrawal of the refusal to register MERCER RESERVE CAVALIE. Because the similar elements are weak and commonly used in the wine industry, this is all the more reason to recognize that there is minimal if any risk of confusion among wine consumers and that a finding of *likelihood* of confusion is entirely unwarranted.

Applicant strongly believes that on these facts it is entitled to the registration of its mark and that the decision to accept or refuse its application must turn on *a realistic consideration of how the marks are used on the applicable goods or services in the market place*, not dissection of the MERCER RESERVE CAVALIE mark and application of a general rule abstracted from decisions based on materially different facts.

8. It is axiomatic that the dominant element of a mark is at the beginning of the mark. The dominant element of the subject mark is MERCER. The third element of the mark, CAVALIE, is subordinate and is a less memorable element of the subject mark. When comparing MERCER RESERVE CAVALIE and CAVALLI in their entireties, the greatest weight should be given to MERCER, not CAVALIE, because it is most likely to be perceived as the primary source indicator in the MERCER RESERVE CAVALIE mark. The additional elements of the subject mark are distinctive and ensure that consumers will understand that Applicant’s good originate from a different source.

Applicant believes the Examining Attorney has overlooked the significance of MERCER, the dominant element of the MERCER RESERVE CAVALIE mark. “[A]lthough the marks at issue must be considered in their entireties, it is well settled that one feature of a mark may be more significant than another, and it is not improper to give more weight to this dominant feature in determining the commercial impression created by the mark.” *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985). A potential consumer viewing the MERCER RESERVE CAVALIE mark will be drawn first to the word MERCER then to RESERVE, which informs the consumer about the special nature of the wine, and only after

seeing these terms, to CAVALIE. The dominance of MERCER, already registered several times as a trademark, renders the MERCER RESERVE CAVALIE mark *as a whole* as notably dissimilar from CAVALLI in appearance and meaning.

9. Viewed in their entirety and with due consideration to the weaknesses of the cited mark, it is clear the subject mark and the cited registration are not confusingly similar. There are no common elements. The differences between the marks far outweigh the single similarity. The Examining Attorney has not cited a single prior case in which marks with so many differences and no common elements were found to be confusingly similar, especially when (as shown above) the element in question is not the dominant element of the subject mark and marks similar to the cited mark are widely used and registered for identical goods.

10. There are two important prior decisions to consider in evaluating the likelihood of confusion between the cited mark and the subject mark. In *In re Chatam Int'l Inc.*, 380 F.3d 1340, 1343, 71 USPQ2d 1944, 1946 (Fed. Cir. 2004), the Federal Circuit affirmed the TTAB's decision finding a likelihood of confusion between GASPAR'S ALE for beer and ale and JOSE GASPAR GOLD for tequila. The Federal Circuit held that the TTAB properly discounted extraneous terms in these two marks and focused on the common use of the same individual name, GASPAR, in finding a likelihood of confusion between the marks. The TTAB and Federal Circuit were influenced by the fact that both marks used the exact same name, which would be likely to make consumers believe that products under both marks came from the same source. However, the present case is distinguishable in three very important ways. First, CAVALLI and MERCER RESERVE CAVALIE do not have any common names or common elements. As noted above, CAVALLI and CAVALIE do not look the same and are not pronounced the same. This point alone makes the present case distinguishable from the *Chatham Int'l* decision. Second, in Class 33, CAVALLI is a weak mark because there are so many similar marks also registered on the Principal Register [and in actual use in the marketplace]. This indicates that the PTO has already determined that differences between marks like CAVALLI and CAVALLO, MAS CAVALLS, CAVALLOTTO, KAVALIER, CAVALLINA, CAVALIA, and MASCHIO DEI CAVALIERI are sufficient to avoid a likelihood of confusion. Third, the additional terms in MERCER RESERVE CAVALIE are not extraneous terms of no significance for identifying the origin of wine sold under the MERCER RESERVE CAVALIE label. MERCER is the subject of prior registrations owned by the Applicant and is in the first and dominant position in MERCER RESERVE CAVALIE. Therefore, MERCER cannot be discounted as an extraneous term that will not affect consumers' impressions of the source of MERCER RESERVE CAVALIE wine.

11. The Federal Circuit decision in *Citigroup Inc. v. Capital City Bank Group, Inc.*, 637 F.3d 1344, 1356, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011) affirmed the TTAB's holding that contemporaneous use of CAPITAL CITY BANK marks for banking and financial services and opposer's CITIBANK marks for banking and financial services was not likely to cause confusion, based, in part, on findings that the phrase "City Bank" is frequently used in the banking industry and that "CAPITAL" is the dominant element of applicant's marks, which

gives the marks a geographic connotation as well as a look and sound distinct from opposer's marks. The facts of this case are very similar. Just as CITY BANK and CITIBANK are not spelled the same, CAVALLI and CAVALIE are not spelled the same.⁴ (In this case, CAVALLI and CAVALIE are also not pronounced the same – so there are even more differences between the marks than in the *Citigroup* case.) In the *Citigroup* case, the applicant's mark included a strong, dominant element that further obviated any risk of confusion. The same is the case here. MERCER is the dominant element of the MERCER RESERVE CAVALIE mark, and is a registered mark in its own right. It is clear that the results and the reasoning of the *Citigroup* case strongly support Applicant's view that there is no likelihood of confusion between CAVALLI and MERCER RESERVE CAVALIE.

Applicant notes that in the Final Refusal, the Examining Attorney did not address any of the case authority relied on by Applicant, including the CRISTAL/CRYSTAL CREEK case footnoted below. Applicant urges the Examining Attorney to consider the applicability of these decisions to the subject application and to see that there is strong precedent supporting approval of the MERCER RESERVE CAVALIE mark for publication.

A mark should be refused under Section 2(d) only when it "so resembles a mark registered in the Patent and Trademark Office . . . as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. § 2(d). Federal courts have been very clear that the consideration of likelihood of confusion is not an abstract mental exercise but a realistic consideration of how the marks are used on the applicable goods or services in the market place:

But the question of confusion is related not to the *nature* of the mark but to its *effect* "when applied to the goods of the applicant." The only *relevant* application is made in the marketplace. The words "when [used]" do not refer to a mental exercise, but to all of the known circumstances surrounding use of the mark.

In re E.I. du Pont de Nemours & Co., 177 USPQ 563, 567 (CCPA 1973) (emphasis in original). In this case, it is crucial that the Examining Attorney consider the subject mark in light of the prominence of the registered MERCER mark, the differences in appearance and sound between CAVALLI and CAVALIE, and the many marks similar to CAVALLI for alcoholic beverages on the Principal Register and in the market place.

Applicant requests the Examining Attorney to withdraw the § 2(d) refusal in this application for the following reasons: (a) the cited mark is weak and very similar marks have been registered in Class 33 and are in use in the marketplace; (b) the differences between the

⁴ The Federal Circuit noted in the *Citigroup* decision that it previously affirmed a TTAB decision relying solely on mark dissimilarity when the words are spelled differently to find the absence of a likelihood of confusion. See, e.g., *Champagne Louis Roederer, S.A. v. Delicato Vineyards*, in which the TTAB and the Federal Circuit found mark dissimilarity between CRISTAL and CRYSTAL CREEK. 148 F.3d 1373, 1374-75 (Fed. Cir. 1998).

marks are significant and are more than sufficient to prevent any confusion among wine consumers; (c) marketplace conditions, as described in the Connolly Declaration, further mitigate any possible risk of confusion; and (d) there are no decisions *on comparable facts* contrary to Applicant's position. For all these reasons, the marks *in their entireties* are so dissimilar that confusion as to the source of the wine offered under the CAVALLI and MERCER RESERVE CAVALIE marks is so improbable that a finding of a *likelihood* of confusion is unwarranted.

Thank you for your consideration of Applicant's request for reconsideration.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Law Office 109/ Trademark Attorney Advisor: Naakwama S. Ankrah

In Re Application of)	
)	
Mercer Wine Estates, LLC)	
)	DECLARATION OF
Serial No. 85/820355)	MICHAEL B. CONNOLLY
)	
Mark: MERCER RESERVE CAVALIE)	
)	
Intl. Class: 33)	
)	

Michael B. Connolly declares as follows:

1. I am a Brand Manager for Winebow, Inc., a major importer and distributor of fine wine, craft spirits and sake from around the world. Founded in 1980 by Leonardo LoCascio, Winebow imports an impressive range of Italian wines under the Leonardo LoCascio Selections label, and an esteemed portfolio representing over 15 countries, including Argentina, Austria, Chile, Japan, Portugal and Spain. Winebow's head office is located in Montvale, New Jersey. I have personal knowledge of the facts set forth below.

2. I have worked in the wine business since 1982, and I have been employed at Winebow from 2013 to the present. Winebow distributes wine to retail channels (such as wine retailers and supermarkets), restaurants and food service providers.

3. I have expertise in the marketing and distribution of wine. I personally am involved in assessing market trends in wine sales and in advising wineries how to optimize their sales. I understand how wine is marketed to consumers in retail channels and restaurants.

4. I am aware of a reserve red wine produced by Mercer Wine Estates in Prosser, Washington under the MERCER RESERVE CAVALIE brand name.

5. I conducted a Google search of the "Cavalie" name and learned that "Cavalie" was the middle name of Alexander Cavalie Mercer, an artillery officer in the British army who served at the battle of Waterloo in 1815. He was also an ancestor of the Mercer family that owns Mercer Wine Estates.

6. The “Cavalie” name sounds like an English or possibly a French name. It does not sound or look like an Italian name, and I have never seen that name in connection with any wine products or other products from Italy.

7. In my opinion, there is almost no possibility of wine consumers experiencing any confusion between the MERCER RESERVE CAVALIE wine brand and the CAVALLI wine brand of the Italian fashion designer of that name.

8. From both the brand names and from legally required information about the source of these wines, it is evident that the MERCER RESERVE CAVALIE wine is produced in the state of Washington whereas the CAVALLI wine is produced in Italy, or more precisely, in Tuscany.

9. The first word in the MERCER RESERVE CAVALIE brand name tells potential consumers that this wine is from a winery named “Mercer.” Even consumers who are not already familiar with Mercer Wine Estates would recognize that the first name on the label is the name of the winery. Similarly, the CAVALLI brand name tells consumers that “Cavalli” is the name of the winery that produces this wine. So, without even getting to “Cavalie” in MERCER RESERVE CAVALIE, consumers will know that MERCER RESERVE CAVALIE and CAVALLI brand wines originate from different wineries.

10. The second word in the MERCER RESERVE CAVALIE brand tells consumers that this is a higher quality and more expensive wine. “Reserve” wines are also usually produced in more limited quantities. The “Reserve” designation tells consumers that the wine was made from higher quality grapes and/or was aged longer before release. Prices vary for “Reserve” wines but they are usually sold at much higher prices than lower quality wine intended for less discriminating wine drinkers.

11. I understand that the suggested retail price for the 2010 Mercer Reserve Cavalie wine, which was released in November 2013, is \$39.99 per bottle. This price is high enough that people will pay attention to the wine they are purchasing and will understand where it comes from and what winery produced it.

12. Even if a consumer completely ignores “Mercer” and “Reserve” – which I think would be highly unlikely, I do not believe that consumers of wine in this price range will be confused between “Cavalie” and “Cavalli”. These names are pronounced differently, and one is clearly an Italian name and the other very clearly is not. The “Cavalli” name functions as the name of a winery, and the “Cavalie” name functions as the name of a specific reserve wine made by Mercer Wine Estates. When you consider the brands as a whole – MERCER RESERVE CAVALIE vs. CAVALLI – there is just no chance of confusion between these brands.

13. There are thousands if not tens of thousands of wines sold in the U.S. from other countries and especially from Italy. Wine consumers are accustomed to distinguishing between many foreign names on wine labels. As I mentioned above, “Cavalli” is clearly an Italian name and American wine consumers will recognize CAVALLI as an Italian wine brand. “Cavalie”, on the other hand, is pronounced differently and is clearly not an Italian name. It sounds either English or possibly French, and American wine consumers will never confuse it with an Italian name.

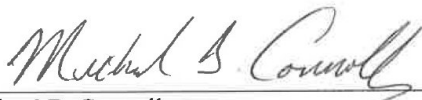
14. Federal law requires wine labels to disclose the country of origin of a wine, and wineries often further disclose the specific area with a country where the grapes were grown. This is not optional. It is required. And it is required because this is important information for consumers deciding which wines to shop for and purchase. In stores and on wine lists in menus, it is typical to sort wines by country of origin. The CAVALLI wine would be shelved or listed with Italian wines. The MERCER RESERVE CAVALIE wine would be listed with U.S. or perhaps with Washington wines. As a result, consumers will never encounter these wines side-by-side. Instead, they will encounter the CAVALLI wine with other Italian wines and the MERCER RESERVE CAVALIE wine with other Washington or U.S. wines.

15. For all these reasons, I see no chance of confusion between MERCER RESERVE CAVALIE wines and CAVALLI wines.

16. I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application and any registration issuing therefrom.

17. All statements made herein of my own knowledge and belief are true and all statements herein made on information and belief are believed to be true.

Executed on this 14th day of March, 2014.



Michael B. Connolly

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Law Office 109/ Trademark Attorney Advisor: Naakwama S. Ankrah

In Re Application of)	
)	
Mercer Wine Estates, LLC)	
)	DECLARATION OF
Serial No. 85/820355)	MARK J. NIELSEN
)	
Mark: MERCER RESERVE CAVALIE)	
)	
Intl. Class: 33)	
<hr/>)	

Mark J. Nielsen declares as follows:

1. I am an attorney for Mercer Wine Estates, LLC, the Applicant in the above referenced application.
2. I have personal knowledge of the facts set forth below and am competent to testify thereto.
3. Attached hereto as Exhibit A is a true and correct copy of TSDR status pages regarding MERCER CANYONS, Registration No. 4,350,047.
4. Attached hereto as Exhibit B is a true and correct copy of a current search results page from Wine-Searcher.com for “Covalli” wines together with web pages from 5 retailers offering Covalli wines for sale over the Internet. It should be noted that the search engine returned results for both “Covalli” and “Cavalli” because the names are so similar.
5. Attached hereto as Exhibit C is a true and correct copy of a current search results page from Wine-Searcher.com for “Cavallotto” wines. It should be noted that the Wine-Searcher website reported finding 212 entries for Cavallotto wines but displayed only 4 pages of entries without using the professional version of their search program. Each entry identifies a specific retailer, a specific Cavallotto wine/vintage, and a price.
6. Attached hereto as Exhibit D is a true and correct copy of a current search results page from Wine-Searcher.com for “Cavalieri” wines displaying 4 of 11 responsive entries without using the

professional version of their search program. Each entry identifies a specific retailer, a specific Cavallieri wine/vintage, and a price.

7. Attached hereto as Exhibit E is a true and correct copy of a current search results page from Wine-Searcher.com for "Cavalls" wines displaying 12 of 22 responsive entries without using the professional version of their search program. Each entry identifies a specific retailer, a specific Cavalls wine/vintage, and a price.

8. Attached hereto as Exhibit F are true and correct copies of web pages from the Dictionary of Canadian Biography and The Napoleon Series websites about Alexander Cavalie Mercer, a British artillery officer who fought at the Battle of Waterloo in 1815 and later served in Canada.

9. I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application and any registration issuing therefrom.

10. All statements made herein of my own knowledge and belief are true and all statements herein made on information and belief are believed to be true.

Executed on this 20th day of March, 2014.



Mark J. Nielsen

EXHIBIT A

STATUS DOCUMENTS

[Back to Search](#)

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Mark: MERCER CANYONS

MERCER CANYONS

US Serial Number:	85757346	Application Filing Date:	Oct. 18, 2012
US Registration Number:	4350047	Registration Date:	Jun. 11, 2013
Filed as TEAS Plus:	Yes	Currently TEAS Plus:	Yes
Register:	Principal		
Mark Type:	Trademark		
Status:	Registered. The registration date is used to determine when post-registration maintenance documents are due.		
Status Date:	Jun. 11, 2013		
Publication Date:	Mar. 26, 2013		

Mark Information

Mark Literal Elements: MERCER CANYONS

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US [3528762](#), [4035079](#)

Registrations:

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Wine

International Class(es):	033 - Primary Class	U.S Class(es):	047, 049
Class Status:	ACTIVE		
Basis:	1(a)		
First Use:	Sep. 30, 2012	Use in Commerce:	Sep. 30, 2012

Basis Information (Case Level)

Filed Use:	Yes	Currently Use:	Yes	Amended Use:	No
Filed ITU:	No	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: Mercer Wine Estates, LLC

Owner Address: 46 Sonova Road
Prosser, WASHINGTON 99350
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY **State or Country Where Organized:** WASHINGTON

Attorney/Correspondence Information**Attorney of Record**

Attorney Name: Mark J. Nielsen

Attorney Primary Email Address: theresa@minlaw.com **Attorney Email Authorized:** No

Correspondent

Correspondent Name/Address: Mark J. Nielsen
LAW OFFICE OF MARK J. NIELSEN
2150 N. 107th Street, Suite 460
SEATTLE, WASHINGTON 98133
UNITED STATES

Phone: (206) 365-9500 **Fax:** (206) 368-9521

Correspondent e-mail: theresa@minlaw.com **Correspondent e-mail Authorized:** Yes

Domestic Representative - Not Found**Prosecution History**

Date	Description	Proceeding Number
Aug. 14, 2013	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 11, 2013	REGISTERED-PRINCIPAL REGISTER	
Mar. 26, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Mar. 26, 2013	PUBLISHED FOR OPPOSITION	
Mar. 06, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Feb. 21, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 16, 2013	ASSIGNED TO EXAMINER	76833
Oct. 23, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 22, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information**TM Staff Information - None****File Location**

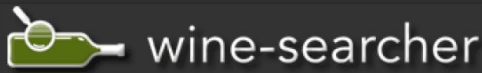
Current Location: PUBLICATION AND ISSUE SECTION **Date in Location:** Jun. 11, 2013

Assignment Abstract Of Title Information - Click to Load**Proceedings - Click to Load**

EXHIBIT B

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Show: ☐ All ☐ Exact ☒ **Exclude Auctions** ☐ Auctions Only
Merchant State:


Products with "Cavalli" in their name.
NV 2003 2007 2008 2009 2010 2011


Where to Buy? **Refine your Search** Tasting Notes

Suggestions ...
We could not find an exact match for your search. Below are some suggestions ...
[Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy](#)
[Roberto Cavalli Vodka, Italy](#)
[Cavalli Tenuta degli Dei 'Le Redini' Toscana IGT, Tuscany, Italy](#)
[Covalli Chianti DOCG, Tuscany, Italy](#)
[Covalli Chianti Riserva DOCG, Tuscany, Italy](#)
[Roberto Cavalli Vodka 80 Liqueur, Italy](#)
Click on one of the above links to refine your search.

Search Options: [Show nearest store](#)

Merchants selling this product	Product Description	Price (Notes) Change Currency
Marketview Liquor NY: Rochester. 10% case discount on some wines. Price excludes sales tax.	2008 Covalli Chianti Riserva DOCG, Tuscany, Italy	\$ 7.99 Bottle
Hops & Grapes NJ: Glassboro. 10% case discount on non sale items. Price excludes sales tax.	2003 Covalli Chianti Riserva DOCG, Tuscany, Italy	\$ 9.99 Bottle
West Trenton Fine Wines NJ: Trenton. Price excludes sales tax.	NV Covalli Chianti Riserva DOCG, Tuscany, Italy	\$ 11.99 Bottle
Kahn's Fine Wines & Spirits IN: Indianapolis. Case discounts on many items. Price excludes sales tax.	2008 Covalli Chianti Riserva DOCG, Tuscany, Italy	\$ 12.99 Bottle
Vino Fine Wine & Spirits NY: New York. 10% discount on orders of twelve bottles of wine or more. Price excludes sales tax.	2008 Covalli Chianti DOCG, Tuscany, Italy	\$ 16.00 Bottle
Best Wines Online CA: Santa Ana. Minimum order of 3 bottles applies to all Pre-Arrival wines. Price excludes sales tax.	2010 Cavalli Tenuta degli Dei 'Le Redini' Toscana IGT, Tuscany, Italy	\$ 18.88 Bottle
Pearson's Wine & Spirits DC: Washington. Price excludes sales tax.	2010 Cavalli Tenuta degli Dei 'Le Redini' Toscana IGT, Tuscany, Italy	\$ 21.95 Bottle
Zachys Wine and Liquor, Inc. NY: Scarsdale. Price excludes sales tax.	2011 Cavalli Tenuta degli Dei 'Le Redini' Toscana IGT, Tuscany, Italy	\$ 22.99 Bottle
Best Wines Online CA: Santa Ana. Minimum order of 3 bottles applies to all Pre-Arrival wines. Price excludes sales tax.	2009 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$ 32.88 Bottle
NapaCabs CA: Chino. Minimum order may apply to some items. Discount - earn Reward Points on purchases and referrals. Price excludes sales tax.	NV Roberto Cavalli Vodka, Italy	\$ 32.95 Bottle
Hi-Time Wine Cellars CA: Costa Mesa. Price excludes sales tax.	NV Roberto Cavalli Vodka, Italy	\$ 32.99 Bottle
Marketview Liquor NY: Rochester. 10% case discount on some wines. Price excludes sales tax.	2007 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$ 34.99 Bottle

Advertisements


Advertisements




Artisan Wine Depot CA: Mountain View. Price excludes sales tax.		2008 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$35.99 Bottle
Woodland Hills Wine Co. CA: Los Angeles. Price excludes sales tax.		NV Roberto Cavalli Vodka 80 Liqueur, Italy	\$36.95 Bottle
BudgetBottle NJ: Summit. Price excludes sales tax.		2007 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$39.95 Bottle
Fine Wine House CA: Los Angeles. Price excludes sales tax.		NV Roberto Cavalli Vodka, Italy	\$39.99 Bottle
M & D Fine Wines & Spirits NJ: Trenton. Discounts available on case purchases. Price excludes sales tax.		2007 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$39.99 Bottle
Zachys Wine and Liquor, Inc. NY: Scarsdale. Price excludes sales tax.		2010 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$39.99 Bottle
Kendall FineWineSpirits FL: Miami. Price excludes sales tax.		NV Roberto Cavalli Vodka, Italy	\$43.99 Bottle
Pogo's Liquor Inc. TX: Dallas. Quantity discounts available. Price excludes sales tax.		2007 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$51.99 Bottle
Gil Turner's Fine Wines and Spirits CA: Los Angeles. Price excludes sales tax.		NV Roberto Cavalli	\$59.99 Bottle
Hi-Time Wine Cellars CA: Costa Mesa. Price excludes sales tax.		NV Roberto Cavalli Vodka, Italy	\$69.99 1.75 Litre
The Wine Connection, San Diego CA: San Diego. Price excludes sales tax.		2010 Roberto Cavalli Le Redini Red Tuscany Italy	\$304.00 Case of 12 Btls
Pearson's Wine & Spirits DC: Washington. Price excludes sales tax.		2010 Cavalli Tenuta degli Dei 'Le Redini' Toscana IGT, Tuscany, Italy	\$359.88 Case of 12 Btls
The Wine Connection, San Diego CA: San Diego. Price excludes sales tax.		2008 Cavalli Tenuta degli Dei Toscana IGT, Tuscany, Italy	\$462.00 Case of 12 Btls

Only 25 of the 51 entries Wine-Searcher has located are showing. Use the [Pro Version](#) to view all results.

Check with the merchant for stock availability. Wine-Searcher is not responsible for errors, inaccuracies, or omissions.

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Obama Serves Moderately Priced Wines At The White House



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Champagne Flutes Are Only Suitable For Weddings, Says Expert





12 Napa Wines Get
100 Points From
Parker



Hungarian
Winemaker Fatally
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[Cordials \(406\)](#)

[Gift Sets \(29\)](#)

[Gin \(100\)](#)

[Prepared Cocktails \(75\)](#)

[Rum \(220\)](#)

[Scotch \(181\)](#)

[Tequila \(138\)](#)

[Vodka \(413\)](#)

[Whiskey \(212\)](#)



Covalli Chianti Riserva

Soft and inviting, the nose is full of blackberry and creme with the palate leaving notes of fig, spice and plum. Great value.

Italy • 2008 • 750 ml



Bottle price: **\$7.99**

[Add to cart](#)



Case price: **\$95.88**

Q: 12

[Add to cart](#)



[Add to wishlist](#)

Customers Who Bought This Product Also Bought:

Piccini Chianti



A deep, ruby red with an intense and persistent fragrance of mature red fruit. It's a well-structured, smooth wine, with soft tannins and distinct notes of red fruit.

Italy • 2012 • 750 ml

Placido Chianti



Placido Chianti is delightfully charming, with a hint of violets in the nose and a dry, harmonious taste. This enticing Chianti is excellent with a broad range of foods including meats, pasta and even spicy foods. Winery

Italy • 2012 • 750 ml

[Reset All](#)



Add to wishlist



\$7.49 Q: 1

Add to cart



\$80.89 Q: 12

Add to cart

*Include 10% case discount



Add to wishlist



\$6.99 Q: 1

Add to cart



\$75.49 Q: 12

Add to cart

*Include 10% case discount

Melini Chianti



This Sangiovese shows pretty cherry and cassis tones and bright acidity. Serve it with pizza topped with sausages and peppers. 87 Points Wine Enthusiast

87 points
Italy • 2011 • 750 ml



Add to wishlist



\$6.99 Q: 1

Add to cart



\$75.49 Q: 12

Add to cart

*Include 10% case discount

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Wine of the Week

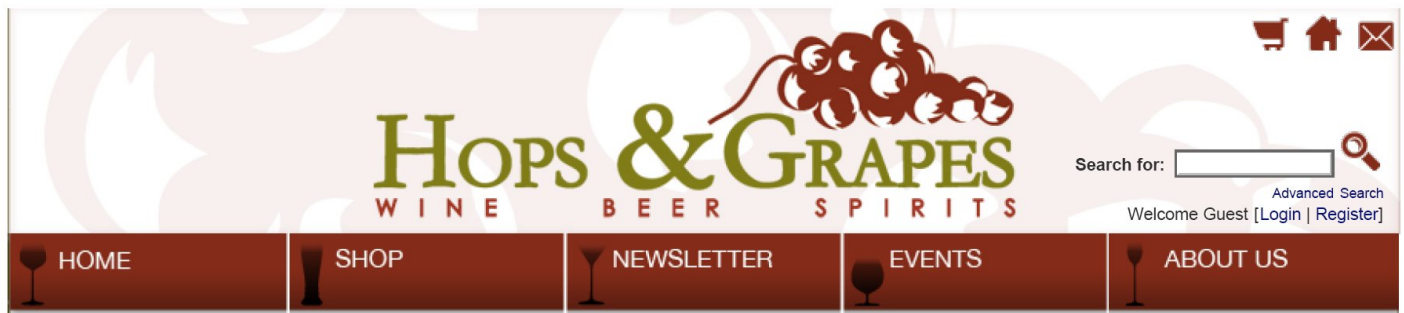
[Buy Neil Ellis "Sincerely" Sauvignon Blanc](#)

Video Spotlight



01:30





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- Oregon (48) ▶
- Portugal (115) ▶
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- Spain (222) ▶
- South Africa (21) ▶
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- Israel (0)
- New York Wine (3)
- New Jersey Wines (110) ▶
- Organic Wine (46) ▶
- New Arrivals (41)
- Beer (154) ▶
- Gin (9)
- Vodka (20) ▶
- Whiskey (20) ▶
- This Month's Specials (34)
- Pre-Mixed Cocktails (3) ▶
- Tequila (10)
- Non-Alcoholic (2)

Location: 📍 /Italy/Toscana/Chianti/Covalli Chianti Reserva 2003

Covalli Chianti Reserva 2003



Product Information

Soft and inviting, the nose is full of blackberry and creme with the palate leaving notes of fig, spice and plum. Great value.

Be the first to review this product!

Price: \$9.99

Product Code: 30800

Quantity: [Add to Basket](#)

Shopping Basket

Your basket is empty.

Items in cart: 0
Total: \$0.00

[View Basket](#)

Store Information

Location

Hops and Grapes
810 North Delsea Drive
Glassboro, NJ 08028

We are located directly behind TD Bank (Doubletree Shopping Center) at the intersection of Delsea Drive and William L Dalton Drive. Unfortunately, many GPS Systems and online direction guides will place you down the street at our mailbox.

For accurate X-Y Google Map coordinates to our location, please click [here](#).

Store & Holiday Hours

Monday - Saturday 9AM - 10PM
Sunday 10AM - 7PM

December 22nd - 10AM to 8PM
Christmas Eve - 9AM to 7PM
Christmas Day - CLOSED
New Year's Eve - 9AM to 8PM
New Year's Day - 11AM to 5PM

Phone and Fax


Phone - (856) 582 - 8110
Fax - (856) 582 - 8118

You can always get in touch with us at
<http://hopsandgrapesonline.com>

Delivery & Pickup

Delivery

Did you know you can have your wine delivered to your door? Hops and Grapes offers many options for our customers so they can order online and have their order delivered right to their door. For more information on our



1511 Parkway Ave., West Trenton, NJ 08628
Phone: 609.538.0045
Hours: Mon - Sat 9am - 10pm and Sun 12pm - 6pm

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- Greece (8)
- Holland (3)
- Hungary (1)
- Italy (266)
- Japan (6)
- Moldova (5)
- New Zealand (30)
- Portugal (72)
- Republic of Georgia (1)
- Romania (3)
- Slovenia (11)
- South Africa (26)
- Spain (68)
- United States (164)

Type/Varietal

- Red (1381)
- Rose (63)
- White (725)

Price

- \$20 and below (1878)
- \$20-\$40 (452)
- \$40-\$80 (186)
- \$80 and above (61)



Covalli Chianti Riserva

Covalli

Italy, Tuscany
Red, Sangiovese

~~\$14.99~~ **\$11.99** / 750ml [Add to Cart](#)

~~\$179.88~~ **\$143.88** / Case of 12 [Buy Case](#)

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Varietal Sangiovese

Appellation Tuscany

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COVALLI CHIANTI RISERVA

WINE BY VARIETAL

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[SPARKLING WINES](#)
[DESSERT WINES](#)
[RED WINE BLENDS](#)
[WHITE WINES](#)

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SANGIOVESE

COVALLI CHIANTI RISERVA

2008 | SANGIOVESE

\$12.99

Qty:

ADD TO CART

\$148.09 / Case of 12

Qty:

"Soft and inviting, the nose is full of blackberry and creme with the palate leaving notes of fig, spice and plum."

AVAILABILITY: 17 bottles
ITEM #: 15136
SIZE: 750ML
VARIETAL: SANGIOVESE

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[WINE BY TYPE](#) / [Red](#) / Covalli, Chianti, DOCG, 2008 (Tuscany, Italy)



**Covalli, Chianti, DOCG, 2008
(Tuscany, Italy)**

Availability: In stock

Price: \$16.00

Quantity:

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EXHIBIT C



cavallotto

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Merchant State:

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All states

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1985	1997	2001	2004	2006	2008	2010	2012

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Where to Buy?

Refine your Search

Tasting Notes

Suggestions ...

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[Cavallotto Bricco Boschis, Barolo DOCG, Italy](#)

[Cavallotto Vignolo, Barolo Riserva DOCG, Italy](#)

[Cavallotto Bricco Boschis Vigna San Giuseppe, Barolo Riserva DOCG, Italy](#)

[Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy](#)

[Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy](#)

[Cavallotto Bricco Boschis Pinot Nero Langhe Bianco, Piedmont, Italy](#)

[Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy](#)

[Cavallotto Bricco Boschis Langhe Chardonnay, Piedmont, Italy](#)

[Cavallotto Grign Langhe, Piedmont, Italy](#)

[Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy](#)

[Cavallotto 'Pinner' Bianco, Piedmont, Italy](#)




















































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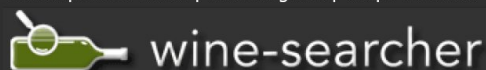
Search Options: [Show nearest store](#)

Merchants selling this product	Product Description	Price (Notes) Change Currency
Winesanywhere NJ: Brick. 10% discount on mixed case, non-sale items only. Price excludes sales tax.	2010 Cavallotto Dolcetto D Alba Bricco Boschis Italy Piemonte Red	\$ 13.99 Bottle
Firewines.com OR: Portland. Price excludes sales tax.	2011 Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy	\$ 14.22 Bottle
Liner & Elsen Wine Merchants OR: Portland. Case discounts are available. Price excludes sales tax.	2011 Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy	\$ 15.99 Bottle
MacArthur Beverages DC: Washington. Price excludes sales tax.	2011 Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy	\$ 15.99 Bottle
Suburban Wines NY: Yorktown Heights. 15% discount on mixed or full cases, excluding sale items. Price excludes sales tax.	2010 Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy	\$ 15.99 Bottle
Astor Wines NY: New York. Price excludes sales tax.	2010 Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy	\$ 16.96 Bottle
Sussex Wines & Spirits NY: New York. 10% mixed case discount (sparkling included). Price excludes sales tax.	2010 Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy	\$ 17.99 Bottle
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	2012 Cavallotto Bricco Boschis Langhe Chardonnay, Piedmont, Italy	\$ 18.74 Bottle
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	2012 Cavallotto Grign Langhe, Piedmont, Italy	\$ 18.74 Bottle
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	2012 Cavallotto 'Pinner' Bianco, Piedmont, Italy	\$ 18.74 Bottle
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	2011 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 18.74 Bottle

purchases of 12 bottles or more. Price excludes sales tax.			
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	   	2010 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 18.74 Bottle
Morrell & Company NY: New York. Price excludes sales tax.	   	2011 Cavallotto Bricco Boschis Pinot Nero Langhe Bianco, Piedmont, Italy	\$ 19.95 Bottle
Firewines.com OR: Portland. Price excludes sales tax.	   	2010 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 20.15 Bottle
67 Wine & Spirits (NY) NY: New York. Price excludes sales tax.	  	2012 Cavallotto Pinner Langhe Bianco Pinot Noir Italy	\$ 20.99 Bottle
Flatiron Wines & Spirits NY: New York. 10% discount applies to mixed-case purchases. Price excludes sales tax.	   	2010 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 21.99 Bottle
Astor Wines NY: New York. Price excludes sales tax.	  	2012 Cavallotto 'Pinner' Bianco, Piedmont, Italy	\$ 21.99 Bottle
Rodman's Discount Food & Drug DC: Washington. 10% discount off cases, excluding sale items. Price excludes sales tax.	   	2008 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 22.99 Bottle
Sussex Wines & Spirits NY: New York. 10% mixed case discount (sparkling included). Price excludes sales tax.	   	2010 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 23.99 Bottle
We Speak Wine NY: Troy. Price excludes sales tax.	  	2010 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 23.99 Bottle
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	   	2010 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 24.34 Bottle
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	   	2011 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 24.34 Bottle
Union Square Wine & Spirits NY: New York. 10% discount on any 6 bottles, 20% on 12 or more. Restrictions apply. Price excludes sales tax.	  	2011 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 24.99 Bottle
JJ Buckley Fine Wines CA: Oakland. Price excludes sales tax.	   	2009 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 24.99 Bottle
Union Square Wine & Spirits NY: New York. 10% discount on any 6 bottles, 20% on 12 or more. Restrictions apply. Price excludes sales tax.	  	2012 Cavallotto Pinner Bianco	\$ 24.99 Bottle

Page: [1](#) [2](#) [>](#)**Wine-Searcher has located 212 entries. Use the Pro Version to view all results.**

Check with the merchant for stock availability. Wine-Searcher is not responsible for errors, inaccuracies, or omissions.



cavallotto

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Cavallotto Bricco Boschis, Barolo DOCG, Italy

Cavallotto Vignolo, Barolo Riserva DOCG, Italy

Cavallotto Bricco Boschis Vigna San Giuseppe, Barolo Riserva DOCG, Italy

Cavallotto Vigna Scot Dolcetto d'Alba, Piedmont, Italy

Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy

Cavallotto Bricco Boschis Pinot Nero Langhe Bianco, Piedmont, Italy

Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy

Cavallotto Bricco Boschis Langhe Chardonnay, Piedmont, Italy

Cavallotto Grign Langhe, Piedmont, Italy

Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy

Cavallotto 'Pinner' Bianco, Piedmont, Italy





















































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Search Results:

Merchants selling this product	Product Description	Price (Notes) Change Currency
Mid Valley Wine & Liquor NY: Newburgh. 10% mixed case discount on most wines. Price excludes sales tax.	2007 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 25.99 Bottle
Sec Wines OR: Portland. Case discounts available on most wines. Price excludes sales tax.	2008 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 26.85 Bottle
Firewines.com OR: Portland. Price excludes sales tax.	2008 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 26.85 Bottle
Sec Wines OR: Portland. Case discounts available on most wines. Price excludes sales tax.	2009 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 26.86 Bottle
Firewines.com OR: Portland. Price excludes sales tax.	2009 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 27.49 Bottle
Grapes The Wine Company NY: White Plains. 15% mixed case discount with some restrictions. Price excludes sales tax.	2010 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 27.99 Bottle
Rodman's Discount Food & Drug DC: Washington. 10% discount off cases, excluding sale items. Price excludes sales tax.	2010 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 27.99 Bottle
Grapes The Wine Company NY: White Plains. 15% mixed case discount with some restrictions. Price excludes sales tax.	2007 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 27.99 Bottle
Grapes The Wine Company NY: White Plains. 15% mixed case discount with some restrictions. Price excludes sales tax.	2008 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 27.99 Bottle
Grapes The Wine Company NY: White Plains. 15% mixed case discount with some restrictions. Price excludes sales tax.	2009 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 27.99 Bottle
Linwood Wine Co. NJ: Fort Lee. 10% mixed case discount, 20% solid case discount on non-sale items. Price excludes sales tax.	2005 Cavallotto Bricco Boschis Langhe Freisa, Piedmont, Italy	\$ 28.49 Bottle
Suburban Wines NY: Yorktown Heights. 15% discount	2010 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 28.99 Bottle

on mixed or full cases, excluding sale items. Price excludes sales tax.		Italy	
The Wine Country CA: Long Beach. Price excludes sales tax.	  	2009 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 28.99  Bottle
Suburban Wines NY: Yorktown Heights. 15% discount on mixed or full cases, excluding sale items. Price excludes sales tax.	  	2011 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 29.99  Bottle
Sussex Wines & Spirits NY: New York. 10% mixed case discount (sparkling included). Price excludes sales tax.	  	2010 Cavallotto Barbera Bricco Cucolo Red Italy Piemonte D Alba	\$ 29.99  Bottle
Stirling Fine Wines NJ: Stirling. 20% mixed case discount on most items. Price excludes sales tax.	  	2007 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 34.99  -
Union Square Wine & Spirits NY: New York. 10% discount on any 6 bottles, 20% on 12 or more. Restrictions apply. Price excludes sales tax.	  	2010 Cavallotto Bricco Boschis Vigna del Cuculo Barbera d'Alba, Piedmont, Italy	\$ 37.99  Bottle
EmpireWine.com NY: Albany. Minimum order may apply to some items. Price excludes sales tax.	  	2005 Cavallotto Bricco Boschis Langhe Nebbiolo, Piedmont, Italy	\$ 44.95  Bottle
Pluckemin Inn Wine Shop NJ: Bedminster. 10% mixed case discounts. Price excludes sales tax.	  	2005 Giovanni Manzoni Barolo Cavallotto Italy Piemonte	\$ 44.99  Bottle
The Wine Connection, New York NY: Pound Ridge. Price excludes sales tax.	  	2003 Cavallotto Bricco Boschis, Barolo DOCG, Italy	\$ 45.00  Bottle
Winesanywhere NJ: Brick. 10% discount on mixed case, non-sale items only. Price excludes sales tax.	  	2003 Cavallotto Bricco Boschis, Barolo DOCG, Italy	\$ 46.99  Bottle
Saratoga Wine Exchange NY: Ballston Lake. Minimum order may apply to some items. Discounts available on all purchases of 12 bottles or more. Price excludes sales tax.	  	2008 Cavallotto Bricco Boschis, Barolo DOCG, Italy	\$ 47.94  Bottle
Bayway World of Liquor NJ: Elizabeth. Price excludes sales tax.	  	2008 Cavallotto Bricco Boschis, Barolo DOCG, Italy	\$ 47.99  Bottle
Stirling Fine Wines NJ: Stirling. 20% mixed case discount on most items. Price excludes sales tax.	  	2008 Cavallotto Bricco Boschis, Barolo DOCG, Italy	\$ 47.99  -
Post Wines and Spirits (Syosset) NY: Syosset. 15% case discount on select still wines (restrictions apply). Price excludes sales tax.	  	2006 Cavallotto Bricco Boschis, Barolo DOCG, Italy	\$ 54.99  Bottle


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[Maschio dei Cavalieri Prosecco di Valdobbiadene Superiore DOCG, Veneto, Italy](#)

[Maschio dei Cavalieri Prosecco di Treviso, Veneto, Italy](#)

[Cantina Cavalieri 'Gege' Verdicchio di Matelica, Marche, Italy](#)

Click on one of the above links to refine your search.

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Search Options: [Show nearest store](#)

Merchants selling this product	Product Description	Price (Notes) Change Currency
GetWineOnline.com NY: New Rochelle. Minimum order of one case may apply to some items. Price excludes sales tax.	NV Cantine Maschio Cavalieri Prosecco Italy Veneto White	\$ 15.86 Bottle
International Wine Shop CT: Westport. Minimum order of 75 USD. Discounts vary per product and quantity. Price excludes sales tax.	NV Maschio dei Cavalieri Prosecco di Valdobbiadene Superiore DOCG, Veneto, Italy	\$ 16.29 Bottle
Enoteca Vino Nostro CA: San Francisco. Price excludes sales tax.	2011 Cantina Cavalieri 'Gege' Verdicchio di Matelica, Marche, Italy	\$ 23.99 Bottle
International Wine Shop CT: Westport. Minimum order of 75 USD. Discounts vary per product and quantity. Price excludes sales tax.	NV Maschio dei Cavalieri Prosecco di Valdobbiadene Superiore DOCG, Veneto, Italy	\$ 95.35 Case of 12 Btls

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cavalls

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Merchant State: USA

All states

10 miles

Products with "Cavalls" in their name.

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Where to Buy?

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Tasting Notes

Suggestions ...

We could not find an exact match for your search. Click on the wine name below to refine your search, try a different search phrase ...

[Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA](#)

Click on the link above to refine your search.

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Search Options: [Show nearest store](#)

Merchants selling this product	Product Description	Price (Notes) Change Currency
Wine O Land NJ: Howell. Various discounts available. Price excludes sales tax.	2008 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$33.60 Bottle
KOWines.com NJ: Millstone. Price excludes sales tax.	2006 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$36.50 Bottle
Fine Wine House CA: Los Angeles. Price excludes sales tax.	2006 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$39.99 Bottle
Pacific Wine Merchants CA: Upland. 10% case discount on most items. Price excludes sales tax.	2008 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$39.99 Bottle
Timeless Wines VA: Winchester. Case discounts available; free shipping on most cases. Price excludes sales tax.	2010 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$45.00 Bottle
Pantheon Wine Shoppe IL: Northbrook. 5% mixed case discount available (excludes sale items). Price excludes sales tax.	2005 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$45.97 Bottle
Woodcliff Lake Wine and Liquors NJ: Woodcliff Lake. 15% mixed case discount. Price excludes sales tax.	2005 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$47.99 Bottle
Kahn's Fine Wines & Spirits IN: Indianapolis. Case discounts on many items. Price excludes sales tax.	2009 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$49.99 Bottle
The California Wine Club CA: Camarillo. Minimum order of 6 bottles. Discounts: Up to 50% off retail dependant on the item being purchased. Price excludes sales tax.	2007 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$55.00 Bottle
Timeless Wines VA: Winchester. Case discounts available; free shipping on most cases. Price excludes sales tax.	2010 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$264.00 Case of 6
Wine O Land NJ: Howell. Various discounts available. Price excludes sales tax.	2008 Marimar Estate 'Mas Cavalls' Dona Margarita Vineyard Pinot Noir, Sonoma Coast, USA	\$400.99 Case of 12 Btls
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WAKEFIELD, EDWARD GIBBON -
VOLUME IX (1861-1870)
b. 20 March 1796 in London,
England

The War of 1812

Canada's Wartime
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The First World War



Source: [Courtesy of Wikimedia Commons](#)

MERCER, ALEXANDER CAVALIÉ, soldier and artist; b. 28 March 1783 at Hull, Yorkshire, England, son of General Alexander Mercer, Royal Engineer, and Miss Dickson; m. 10 Oct. 1813 Frasquita (Fanny) Rice, and they had one son; d. 9 Nov. 1868 at Exeter, England.

Alexander Cavalie Mercer's early education took place in a variety of undistinguished private schools; these did not prepare him adequately to pass initially the entrance examinations for the Royal Military Academy at Woolwich, England, though he was eventually admitted. Upon

graduating he took a commission as 2nd lieutenant in the Royal Artillery in 1799 because he "hardly looked upon Engineers as soldiers; and . . . [he] wanted to be a soldier." Promoted 1st lieutenant in 1801, Mercer served in the Cork district of Ireland between 1801 and 1805, to help keep order after the union of Ireland with Britain. During this time he suffered from ophthalmia. After spending the next two years at Woolwich, Northfleet, and Christchurch in England, he was ordered to South America where he participated in Lieutenant-General John Whitelocke's unsuccessful expedition to seize Buenos Aires for the British. By now a captain, Mercer was back in England by the end of 1808 where he remained until ordered to the Continent in 1815 as part of the Duke of Wellington's army; he fought at Quatre Bras and Waterloo. In the absence of Sir Alexander Dickson, the youthful officer was given command of G troop of the Royal Horse Artillery. During the battle of Waterloo he disobeyed Wellington's orders, and although the results were fortunate Mercer was disciplined. Reduced to half pay on 31 July 1816 he was forced to wait until 1821 to be reinstated to full pay; he nonetheless received the Waterloo medal, presented to all British officers who participated in Napoleon's defeat.

A careful observer, Mercer was considered by his son to be "a very good amateur artist" and it was this ability that he drew upon when writing about his experience in the Waterloo campaign; his journal, published posthumously in 1870 by his son, is an excellent description of the Lowlands and the Netherlands as the English found them in 1815, but it records only that portion of the battle which immediately affected Mercer.

Upon reinstatement Mercer was sent to Lower Canada in command of the 6th company of the 5th battalion of the Royal Artillery at Quebec; he arrived in Canada on board the *William Harris* on 7 July 1823. During this posting Mercer spent time at Quebec and Île Sainte-Hélène, and, using Kingston, Upper Canada, as a base, was a member of a board to survey the ordnance supplies in Upper Canada in 1824. Away from Canada during a long leave of absence from 1825 to 1827, Mercer again left the colony for England in 1829 and took up postings at

Woolwich and then Devonport. On 22 Oct. 1837 Mercer, now a lieutenant-colonel, returned to British North America to command the artillery in Nova Scotia and remained at Halifax until 16 Aug. 1842. He made extensive tours of inspection throughout the Maritimes, and left an important water-colour record of many of the places he visited, especially Halifax and the surrounding region and Fredericton and the Saint John River valley. Although his paintings are now faded, he appears to have been one of the most original artists of the group of military topographers who documented the colonial landscape. The largest collection of his water-colours is preserved in the Public Archives of Canada.

In 1842 Mercer returned to England and a posting at Dover. He was promoted colonel in 1846, major-general in 1854, lieutenant-general in 1857, colonel-commandant in 1859, and general in 1865. He then left active service. He remained colonel-commandant of the 9th brigade of the Royal Artillery until his death.

[M. BELL](#)

PAC, RG 8, I (C series), 747, pp.151–52, 154. PANS, MG 12, HQ 31, p.119. PRO, WO 17/1527–33, 17/2384–89 (infin. at PAC); WO 76/360. Royal Artillery Institution (Woolwich, Eng.), General A. C. Mercer papers, diary, 1786–1815. [A. C. Mercer], *Journal of the Waterloo campaign kept throughout the campaign of 1815*, ed. C. A. Mercer (2v., Edinburgh and London, 1870). *Battery records of the Royal Artillery, 1716–1859*, comp. M. E. S. Laws (Woolwich, Eng., 1952). *Hart's army list*, 1868. Francis Duncan, *History of the Royal Regiment of Artillery* (2v., London, 1872–73).

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Research Subjects: Eyewitness Accounts

THE NAPOLEON SERIES

The Art of Alexander Cavalie Mercer

By [Gareth Glover](#)

Anyone who has ever read anything about the Waterloo campaign of 1815, will know of the journal of General Alexander Cavalie Mercer; with its vivid and dramatic portrait of the role played by G Troop Royal Horse Artillery during the retreat from Quatre Bras and the Battle of Waterloo itself. But readers may be amazed to hear that no one has actually seen the full glory of his journal as Mercer intended it to be seen....until now



Only Known Portrait of Alexander Mercer

Mercer's Journal

Around 1830 Mercer wrote up his journal[i] from the original notes he had written contemporaneously, with additions from correspondence and other sources. It covers the period only from April 1815 to January 1816, when Mercer returned to Canterbury with D Troop which he had succeeded to on the death of Major Beane. By Mercer's own admission he had little time to write his journal up in the hectic few days before and after Waterloo, so his account may not be entirely reliable. Indeed in an article I wrote a years ago, I was able to establish that Mercer had formed a great dislike for his number two, Second Captain Robert Newland[iii], whom he barely mentions throughout and the troop had not received as many casualties in men or horses as he stated in his journal[iii].

It is also clear from his later correspondence, that he had become a bitter old man; still cavilling over the failure of the establishment, in his eyes, to recognise and adequately reward his achievements that day[iv].

Despite the fact that the journal is written in a style clearly designed to achieve the greatest appeal with the British public and promoted his heroic achievements unashamedly was not brought to a publisher during his life time. The reason for this is not clear, but within two years of his death, the journal was published by William Blackwood in 187 as a 'Journal of the Waterloo Campaign kept throughout the Campaign of 1815 by the late General Cavalie Mercer, commanding the 9th Brigade Royal Artillery' in two volumes.

It was re-published with a foreword by Sir John Fortescue in 1927 in a single volume edition for the 'Soldier's Tales' series. This latter version was published again by Green Books in 1985 and at least five different versions are at present available to purchase from various publishers.

Mercer's son states, regarding the journal, that 'It has no pretension to be an account of the military operations of the war, but merely a diary of the writer's own impressions what he saw and felt while with the army, from the first landing in Belgium to the final embarkation for England. Of the great battle, no other description than that of the part taken in it by his own troop of Horse Artillery, or those corps in his immediate vicinity, is given; but from its very nature as a diary, the tedium, of out-quarters, the fatigues of the march, and the hardships of the bivouac, are made present, as it were, to the reader.'

The Strange Omission

Mercer was an accomplished amateur artist and during his service in [Lower Canada](#) (1828-29) and [Nova Scotia](#) (1840-42) Mercer painted a number of watercolours which were acquired by the [National Gallery of Canada](#) in the 1980s. These watercolours show that he had a good eye for a scene and that he must have enjoyed spending many hours of free time in various cantonments perfecting his craft.

It is therefore very strange that his journal contains no images at all, not even new images commissioned by the publisher to enhance the volume.

The Great Discovery

I have recently been involved in contacting archives from all over Europe and collating their holdings of material relating to the Waterloo campaign, for a very ambitious project to publish as much as possible of this material during the run up to the two hundredth anniversary of the campaign.

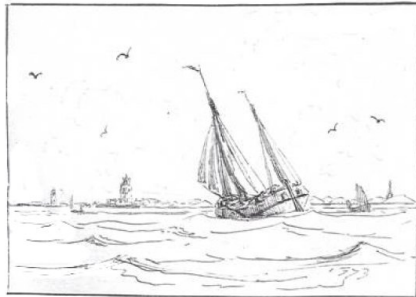
This project is now beginning to show fruit, with the publication of Volume 1 of *The Waterloo Archive – British Sources* by Frontline Books in January 2010. Volume 2 from German sources is due for publication in July 2010 and eventually it is hoped to publish no less than six volumes if there is enough public support for the project. During this process I contacted the National Library of Scotland who were very helpful in finding me a great deal of valuable material which they kindly gave me permission to publish in this series. They also, in passing, mentioned that they also held the original hand written manuscript of Alexander Mercer's Journal of the Waterloo Campaign, adding the magnificent 'Including his twenty one illustrations!!' As may be imagined, this caused my heart to skip a beat, knowing that these drawings had never been published, and within seconds I was in contact to obtain copies and to gain the rights to publish them in the *Archive* which was graciously given.

The twenty-one pen and ink line drawings were clearly made at the time of the campaign and depict various aspects mentioned in the book. They range from simple views of surroundings and his billets, to depictions of the shipwreck he witnessed at Ostend and of course scenes of battle and are clearly labelled with their subject and the page in the journal where they should be placed when published. It is therefore a complete mystery as to why these etchings were omitted from the published version and why his son far

to mention their very existence in his foreword to the book, despite mentioning his father's artistic ability. These invaluable eye witness depictions are of enormous historical significance and are reproduced in full in Volume 1 of *The Waterloo Archive*. But I am happy to reproduce here a few of these drawings for the delectation of members of the Napoleon Series.

Gareth Glover

For more details of the work of Gareth Glover, visit the [Gareth Glover Collection](#)



Ostend 1815



Chateau de Gaesbec
from the Road



The Battle

The Battle of Waterloo



Paris from St Denis
by La Chapelle

Paris from St Denis by La Chapelle



Mercer Receiving the Lance from the Lancer of the Imperial Guard

Notes:

[i] His son, in his 1870 introduction, states that his father had written the journal up about 40 years previously.

[ii] Second Captain Robert Newland had served in Spain throughout most of the Peninsular war before joining G Troop. There was clearly animosity between Mercer and his more experienced deputy and in his letters written late in life to Henry Leathes, he suggests that Newland left his post for a safer one. Newland had an exemplary record having fought at Salamanca, Vitoria, Orthes and Tarbes and had often been commended and it is not easy now to establish the truth in all this. I have delved into this relationship in my novel about Waterloo entitled *Voices of Thunder* published by UPSO in 2003.

[iii] Mercer states that two thirds of his men were hors de combat and that they had lost 140 horses. Henry Leathes stated that this was too high (see page 16 of *Reminiscence Waterloo*) and the Muster Rolls prove him right. Having checked at Kew, I was able to confirm the troop casualties as 1 gunner killed and eleven wounded; 4 drivers killed; 9 wounded, a casualty rate of 16% and 69 horses were actually lost out of 216, a casualty rate of 32%. For more detail on this see the author's article [Mercer's Troop at Waterloo](#). It should be noted however, that since writing this article in 2002, I have discovered Mercer's Waterloo Medal at G Troop, RHA, Parachute Regiment's little museum.

[iv] Mercer was particularly critical of Sir Augustus Frazer, but I cannot agree with Mercer that Frazer failed to praise his troop adequately.

Placed on the Napoleon Series: January 2010

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